

Respondent: 1st Mr G D Goodall
Signed the day of

2013

REF/2012/0164

THE ADJUDICATOR TO HER MAJESTY'S LAND REGISTRY

LAND REGISTRATION ACT 2002

IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY

B E T W E E N :-

PETER ROBERT MILES

Applicant

and

WILLIAM OFFLEY HINCHLIFFE FRIEND

Respondent

**WITNESS STATEMENT OF GEORGE DOUGLAS
GOODALL**

I, Mr George Douglas Goodall of Lawn Cottage, East Northdown, Margate, Kent, CT9 3TS, Retired, STATE as follows:-

1. My wife and I are the owners of Lawn Cottage, East Northdown, Margate Kent, CT9 3TS (and registered at HM Land Registry under title number K543663) ("Lawn Cottage") and we purchased the property on 1st November 1982 from Mr Irvine James Cowley Friend who was the father of the Respondent Mr William Friend. I am now semi-retired but during my working life I was a self employed property developer working from home.
2. My wife and I have lived continuously at Lawn Cottage since we purchased the property in 1982. I remember that Mr Miles had been living at East Northdown House for about 2 to 3 months before we arrived there.

3. I have been asked by Mr Friend's solicitor to provide any information regarding claims made by Mr Miles in these proceedings that he has acquired certain rights over Mr Friend's land which I understand to be the private road and the piece of land next door to East Northdown Cottage which gives access to the Cottage and to East Northdown House. I understand that in the proceedings the land has been referred to as "the Road" and "the Blue Land" and I shall adopt the same wording. I understand that the rights that Mr Miles seeks are said to have been acquired by him by virtue of long usage over a period of 20 years or more and this period of time certainly fits in with my own occupation and ownership of Lawn Cottage.
4. As will be apparent from any map or plan, Lawn Cottage is located just north of East Northdown House and is the next property along the Road on the same side of the Road.
5. We enjoy express rights of way granted by I.J.C.Friend to Lawn Cottage (and which are registered at HM Land Registry) to serve Lawn Cottage as a single private dwelling, . My reading of this is that the right of way extends from George Hill Road down the lane to the end of my boundary furthest along the lane.
6. I have purchased two further strips of land from the Friend Family trust and from William Friend to extend my garden. These can only be accessed from my existing garden and used as one with it, and so benefit from my existing right of way over the private roadway. Change of use was applied for from agriculture to residential use. When I purchased, restrictions (covenants) were imposed to prevent development. I welcome these, even as a property developer, because they enable the area to be maintained as a quiet oasis off the busy main road without infilling.
7. Since William Friend moved to the farm in 1985 he has routinely cleaned and repaired the Road. On various occasions he has asked for a contribution for the costs of materials for the Road, and I have paid what has been asked of me. I have never disputed his right to carry out repairs and charge for them. The work is done on an "ad hoc" basis rather than on a regular planned scheme so you never know quite what is going to be done or what the bill is going to be, but I have paid without quibbling when asked to do so. It is in my interest for the Road to be reasonably maintained.

8. I know that Mr Miles and his family and visitors to his property use the Road and cross over the Blue Land in order to gain access to the rear and south side of East Northdown House. He also has an "in – out" driveway which comes immediately off the Road to the south in a semi circular curve and exits back onto the Road further north just before the common boundary with my property.

9. The Blue Land provides access to his land to the side and rear of East Northdown House but I have little or any knowledge about how this is achieved or what changes may have been made over the last 30 years or so. I am told that it provides access to land which has been called "the Paddock" and "the Orchard" but I do not have any personal knowledge as to how those two pieces of land are used by Mr Miles because, as far as I am concerned, they are simply part of his garden or are accessed from his garden as part of his use and occupation of East Northdown House as his home. As I make clear below, beyond the application for planning permission in connection with weddings and the occasional wedding, I have seen nothing which suggests any commercial or non-residential use by him of any of the land. Had it been otherwise, I am sure that I would have noticed.

10. As to the question of whether there have been commercial uses of his house and land I can only speak as to my own personal knowledge which consists of the following. I know that in the early 1990s he obtained planning permission for a temporary period in order to hold wedding receptions at East Northdown House. I cannot say for certain how often they occurred but I do not think there were more than 2 or 3 events in the whole time he had the planning permission which was probably 5 years. I did see cars parked in the drive and on the Road, others may have been parked to the side or rear of the house- but this cannot be viewed from my property. Mr Miles also applied for planning permission to operate an old people's home but I believe this was refused by the local authority as there was insufficient drainage to cater for that use.

11. I am not aware of any other commercial activities held at the house or on the adjoining land. In the 30 years that I have been at Lawn Cottage I have not been aware of commercial vehicles visiting East Northdown House or the land adjoining for collecting and depositing any building materials, plant and machinery on a commercial basis and I believe that if it had occurred on a regular basis I would have noticed this.
12. So far as horses are concerned, my daughters used to ride at school and I have seen horses in the Road and am aware that Mr Miles and his partners have kept some horses over the years but as his land is tucked away and not very visible from the Road, I could not say how many he kept. Certainly there was not the level of vehicular traffic (including horseboxes or other related deliveries) or equestrian movements which suggested any use over or above the domestic which would suggest that he was operating a livery or stabling to any greater scale.
13. On the question of whether Mr Miles, his family and visitors park cars in the Road, I can confirm that this does occur on occasion. As I have said, Mr Miles has an "in – out" driveway and he usually parks his car there, as do members of the family. Apart from the weddings back in the early 1990s, the only other times that I have been aware of parking in the Road is when Mr Miles has held a party and visitors would park in the Road. This only happens once or twice a year for a few hours. There might be 8 or 9 cars in the Road but it is certainly not a regular or continuous occurrence. The width of the Road in front of Mr Miles' house is slightly wider than the rest of the Road and parking on that section tends not to cause any obstruction. Occasionally I, and other residents in the lane and our visitors park here but for the last few years this section has become increasingly overgrown as the hedge at this point has not been cut back so it is difficult to park there without obstructing the Road for other users .
14. I know that on our title documents for Lawn Cottage, Mr Miles and East Northdown House have a right to drain to a soakaway or septic tank behind Lawn Cottage. The location of the septic tank is in fact now in my property as I bought that piece of land from Mr Friend in 1990 or 1991. From time to time over the last 22 years or so I have inspected the septic tank by lifting the lid there has never been any effluent in it. Because the access to the tank is from my property, Mr Miles has to

ask me for access and he has never asked me for it so, I conclude, there has been no occasion when Mr Miles has had to have access to the septic tank for it to be emptied, maintained or repaired. I merely state that as a fact although I do acknowledge that he has rights under the title documents which I do not dispute.

I believe that the facts stated in this witness statement are true.

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Mr George Douglas Goodall

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Dated

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